IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.06.2007

C O R A M :

THE HONOURABLE MR.A.P.SHAH, THE CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE P.JYOTHIMANI

W.A.No. 174 of 2007 and W.P.No.10228 of 2006
and connected miscellaneous petitions.

W.A.No.174 of 2007:

D. Shankar ... Appellant

-vs-

1.Mr. Chidambaram Gopal
rep. By its Power of Attorney
Mrs. Geetha Sunda.

2.Tamil Nadu Electricity Board
rep. By its Chairman
100 Anna Salai
Chennai 600 002.

3.The Assistant Engineer
Koyambedu Commercial Complex Division
Tamil Nadu Electricity Board
Chennai Electricity Distribution Circle (West)
Chennai 600 106. ... Respondents

Writ Appeal filed under Clause 15 of Letters Patent against the order of the learned single Judge dated 21.12.2006 made in WPMP.No.11569 of 2006 in W.P.No.10228 of 2006.

Petition praying to grant interim direction directing the respondents to give temporary; Servicte Connection to the premises at Plot No. 14, Door No. 15/2 Mangamma Nagar Srinivasan Nagar Extension, Koyembedu, Chennai.

Writ Petition No.10228 of 2006:
Mr. Chidambaram Gopal
rep. By its Power of Attorney
Mrs. Geetha Sunda. .. Petitioner

vs.

1. Tamil Nadu Electricity Board
rep. By its Chairman
100 Anna Salai
Chennai 600 002.

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2. The Assistant Engineer
Koyambedu Commercial Complex Division
Tamil Nadu Electricity Board
Chennai Electricity Distribution Circle (West)
Chennai 600 106.

3.D. Shankar .. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus as stated therein.

For appellant in WA :: Mr. V. Ayyadurai and for the 3rd respondent in WP.

For Ist respondents in WA and for the Petitioner in WP :: Mr. K.M. Vijayan, Sr. Counsel for M/s. La & Law for R1.

For Respondents 2 & 3 in WA and Respondents 1 & 2 in WP :: Mr. R. Subbiah for R.2 & 3 (TNEB)

COMMON JUDGMENT

(DELIVERED BY P.JYOTHIMANI,J.)

This writ appeal is directed against the order of the learned single Judge passed in WPMP.No.11569 of 2006 in W.P.No.10228 of 2006 dated 21.12.2006. The first respondent herein, filed the said writ petition for direction against respondents 2 and 3, viz., Tamil Nadu Electricity Board to give electricity connection to the premises at Plot No.14, Door No.15/2. Mangamma Nagar, Srinivasa Nagar Extension, Koyambedu, Chennai 600 092. The appellant herein was made as third respondent in the writ petition.

2. By consent, the writ petition is also taken up for final disposal.

3. The case of the first respondent herein, who is the writ petitioner is that, he is the owner of the property at Plot No.14 in Door No.15/2 Mangamma Nagar, Srinivasa Nagar Extension, Koyambedu, Chennai 600 092. He has applied for electricity service connection in respect of the said plot. It was, at that time, the third respondent in the writ petition, who has filed the present appeal has raised an objection, and it was, due to the objection raised by him, the second respondent has not given electricity connection to the said plot. In those circumstances, the first respondent/writ petitioner, has also approached the Civil Court by filing O.S.No.7360 of 2005, and pending the said suit, he has also filed I.A.No.21585 of 2005, praying for interim injunction against the third respondent in the writ petition, from interfering with the construction activities and also peaceful possession of Plot No.14, Mangamma Nagar, Srinivasa Nagar Extension, Koyambedu, Chennai 600 092. The Civil Court has also granted injunction and the said injunction order is in force as on today. Even thereafter, when the writ petitioner approached the Electricity Board for connection

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in respect of the newly built-up superstructure at Plot No.14, Mangamma Nagar, Srinivasa Nagar Extension, Koyambedu, Chennai 600 092, the Electricity Board has not given service connection on the basis that the third respondent has objected for granting of the same. It was, in those circumstances, the writ petition came to be filed. Pending the writ petition, the writ petitioner has also filed WPMP.No.11569 of 2006, for interim direction against the Electricity Board to give temporary connection for the premises at Plot No.14, Mangamma Nagar, Srinivasa Nagar Extension, Koyambedu, Chennai 600 092. It is the grievance of the third respondent in the writ petition, who is the appellant herein that, in the said WPMP., he was not made as a party and an order of interim direction was granted by the learned single Judge on 21.12.2006, against which the third respondent in the writ petition has filed the present appeal.

4. We have heard learned counsel for the appellant as well as the respondents.

5. It is the admitted case of the appellant, who is the third respondent in the writ petition that he is the owner of Plot No.3 in Door No.15/2 Mangamma Nagar, Srinivasa Nagar Extension, Koyambedu, Chennai 600 092 and he has got service connection for his property. The grievance of the appellant is that, in the guise of getting service connection in Plot No.14, Mangamma Nagar, Koyambedu Village, Chennai 600 092, the first respondent is pointing out Plot No.3, which belong to the appellant and it was in that view the objection was made. In fact, the appellant has also filed a suit in O.S.No.3116 of 2005 on the file of City Civil Court, Chennai, for permanent injunction in respect of his property and against the first respondent herein and the said suit is also pending.

6. When the writ appeal came up for admission, we have directed the learned counsel for the second and third respondents, Tamil Nadu Electricity Board, to get instruction about giving of fresh connection as a temporary measure to the property, viz., Plot No.14 Mangamma Nagar, Koyambedu Village, Chennai 600 092, of the first respondent.

7. Mr. R. Subbiah, on instruction would submit that, since the first respondent, who is seeking service connection for Plot No.14 Mangamma Nagar, Koyambedu Village, Chennai 600 092, is actually showing Plot No.3 belonging to the appellant, in which there is already a service connection in existence and therefore, there cannot be any fresh service connection for Plot No.3 once again.

8. On the other hand, it is admitted by the learned counsel for the appellant as well as the first respondent that, appellant is the owner of Plot No.3 and the first respondent is the owner of Plot No.14 and in respect of Plot No.3 belonging to the appellant, there is already a service connection in existence. What is required is that, the first respondent, who is the writ petitioner, has put up a new construction in his property at Plot No.14, Mangamma Nagar, Srinivasa Nagar Extension, Koyambedu, Chennai 600 092, and therefore he requires service connection independently to his plot, to which, he is the owner.

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9. On the face of the above said admitted facts, we are of the view that the writ petition has to be disposed of with direction to

the second and third respondents, Tamil Nadu Electricity Board, to provide fresh service connection to Plot No.14, Mangamma Nagar, Srinivasa Nagar Extension, Koyambedu, Chennai 600 092, belonging to the first respondent as an interim measure till the suits filed by the appellant in O.S.No.3116 of 2005 and the first respondent in O.S.No.7360 of 2005, are disposed of by the civil court. This arrangement is made in the interest of both parties, since the first respondent having put up a construction in Plot No.14, Mangamma Nagar, Koyambedu Village, Chennai 600 092, cannot be denied electricity service connection atleast till the dispute before the civil court is decided between the appellant and first respondent.

10. In view of the above said facts and for the reasons stated above, while confirming the order of the learned single Judge passed in WPMP.No.11569 of 2006 in WP.No.10228 of 2006, we dismiss the writ appeal and the writ petition is disposed of in the following terms.

(i) The second and third respondents, viz., Tamil Nadu Electricity Board, shall give electricity service connection in favour of the first respondent in W.A.No.173 of 2007 in respect of Plot No.14, Mangamma Nagar, Koyambedu Village, Chennai 600 092, as an interim measure, on payment of necessary charges in accordance with law;

(ii)The electricity service connection, which is in existence in Plot No.3, relating to the appellant's property shall continue to exist;

(iii) After disposal of the civil suits in O.S.No.3116 of 2005 and O.S.No.7360 of 2005, filed by the appellant and the first respondent respectively, and based on that decision, second and third respondents shall decide finally about the permanent connection to the property of the first respondent in respect of Plot No.14, Mangamma Nagar, Koyambedu Village, Chennai 600 092.

There is no order as to costs in the appeal as well as in writ petition. Connected miscellaneous petitions are closed.

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Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

To
1.The Chairman
Tamil Nadu Electricity Board
100 Anna Salai
Chennai 600 002.

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2.The Assistant Engineer
Koyambedu Commercial Complex Division
Tamil Nadu Electricity Board
Chennai Electricity Distribution Circle (West)
Chennai 600 106.

+ One cc to Mr. M. Ganeshan Advocate SR 33801

+ One cc to M/s La & Law Advocate SR 33778

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WP.No.10228/06
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